Key requirements of the SEA Directive


Vienna, 12 May 2016
Outline of the presentation

1. WHY do we need SEA?

2. WHICH plans and programmes?

3. KEY elements of the SEA procedure.
Environmental Assessments

**POLICIES, STRATEGIES, LEGISLATION**

**PLANS & PROGRAMMES**
- SEA Directive (2001/42/EC)
- Projects (Public - Private)
- EIA Directive (2011/92/EU, as amended)

**PROJECTS (PUBLIC - PRIVATE)**
- Landfill Directive
- IED Directive
- Carbon Capture Storage Directive

**WATER FRAMEWORK DIRECTIVE**
- Waste Framework Directive
- Habitats and Birds Directives

**IMPACT ASSESSMENT**
WHY do we need SEA?

• To provide for a **high level of protection of the environment**.

• To contribute to the **integration of environmental considerations** into the preparation of **public** plans and programmes with a view to promoting sustainable development.

• Plans, programmes and projects which are **likely to have significant effects** on the environment are subject to an assessment.


• The EU is a Party to the UNECE SEA Protocol
SEA: WHICH plans and programmes? (1/4)

Which plans or programmes?

- prepared and/or adopted by an authority at national, regional or local level AND
- required by legislative, regulatory or administrative provisions.

Exemptions:

- Plans & programmes the sole purpose of which is to serve national defence or civil emergency;
- Financial or budget plans/programmes.
1. Plans and programmes (P/Ps) that always require SEA are those:
   • prepared for agriculture, forestry, fisheries, energy, industry, transport, waste/water management, telecommunications, tourism, town & country planning or land use AND which set the framework for future development consent of projects listed in the EIA Directive;
   • which have been determined to require an assessment under Articles 6 or 7 of the Habitats Directive.
   • P/Ps co-financed by the EU (e.g. OPs).
   • Modifications of P/Ps.

2. Plans and programmes that must be screened:
   • P/Ps using small areas at local level.
   • minor modifications to P/Ps.
   • P/Ps setting the framework for future “non-EIA projects” and “non-sector” P/Ps.
SEA: WHICH plans and programmes? (3/4)
Non-exhaustive examples of p/p required under the EU legislation

- Action Programmes
  - Nitrates Directive (91/676/EEC)
- River Basin Management Plans (RBMPs)
- Flood Risk Management Plans (FRMPs)
  - Floods Directive (2007/60/EC)
- Programmes of measures
- Waste management plans
- Transitional National Plans (TNPs)
**Operational Programmes (OPs) - EU co-funded**

Common Provisions Regulation (Regulation 1303/2013)

- Most EU OPs are subject to SEA, which is the environmental pillar of the *ex-ante* evaluation;
- The SEA ensures systematic integration of environmental concerns into the OPs;
- The SEA is carried before the adoption of the OPs, and subject to consultation are the OP and the SEA report;
- The SEA ensures synergies with other relevant plans and procedures (e.g. linked to *ex-ante* conditionalities – transport plans);
- The quality of the SEA reflects on the quality of the OP, and can facilitate the implementation of the projects.

**Programmes devised under the Union's instruments for financing external action**

Regulation 236/2016 for financing external action

- "Where relevant SEA shall be used in the implementation of sectoral programmes"
What is "screening"?
An assessment to determine, if a plan or programme is likely to have significant environmental impacts.

Why carry out a "screening"?
- To determine whether SEA is required.

For which plans/programmes carry out a "screening"?
- P&P local level + minor modifications of P&P;
- P&P setting the framework for future development consent of projects; not covered by Art 3.2 of the SEA Directive.

How to carry out "screening"? (Art. 3(5) and Annex II)
- Case-by-case decision or specifying types of plans and programmes or a combination of both;
- Annex II criteria: characteristics of p/p; characteristics of effects and areas likely to be affected.
Integration of the SEA procedure in the planning process

Art. 4 of the SEA Directive

• **SEA should be carried out:**
  • *During the preparation of plans/programmes;*
  • *Before their adoption.*

• **SEA may be integrated** in *existing* planning procedures for the adoption of plan and programmes or in *new ones* for the requirements of the Directive.
The SEA procedure

1. **Screening**
   - Using screening criteria

2. **Scoping**
   - Scope and level of detail
   - Obligatory under the SEA

3. **Environmental Report/Study**
   - The “Report” (including a non-Technical summary)

4. **Information and Consultation**
   - Public, environmental authorities, transboundary procedure (Art.7, and if applicable)

5. **Decision**
   - Takes account of environmental report and consultations

6. **Information on decision**
   - End of SEA process

7. **Monitoring**
   - Significant environmental effects
Key elements of SEA - the Environmental Report

Must identify, describe and evaluate, *inter alia*:

- the likely significant environmental effects of implementing the p/p;
- reasonable alternatives + relationship with other plans/programmes
- Environmental protection objectives, how they were taken into account.
- Mitigation
- Monitoring measures.
- Non-technical summary *(important).*
Key elements of SEA - Consultation

• **Environmental authorities**
  - in screening
  - in scoping
  - on the *draft* plan/programme and the environmental report

• **The public**
  - on the *draft* plan/programme and the environmental report

• **Transboundary consultations**
  - on the *draft* plan/programme and the environmental report
UNECE Protocol on Strategic Environmental Assessment to the Espoo Convention

Adopted in 2003 (Kyiv), in force since 2010

- 26 Parties, including the EU
- Global instrument – open to any Member State of the United Nations

Transboundary procedure (1/2)
Art. 7 of the SEA Directive & Art. 10 of the SEA Protocol
Transboundary procedure (2/2)

• **Stage I: Initiation of the procedure**
  - Notification
  - Confirmation from affected country
  - "Party of origin" & "Affected Party"

• **Stage II: The procedure**
  - Preparation and provision of information and documentation'
  - Possibility for commenting by foreign authorities and public;
  - Consultation with the environmental and health authorities
  - Final decision and information about the decision.

• **Practical arrangements have to be established for carrying the transboundary SEA procedure** - *ad hoc* or through bilateral agreements.
Key elements of SEA - Decision making

The competent authorities have to take account of the:

- Environmental report.
- Opinions expressed pursuant to the consultation (public, environmental authorities).
- Results of any transboundary consultation.
Key elements of SEA - Information on the decision – Art.9

Information about final decision has to be provided to the public, environmental authorities, other countries (if consulted):

- Adopted plan/programme;
- Statement summarising how environmental report and results of consultations have been taken into account, and reasons for choosing between alternatives;
- Monitoring measures.
Key elements of SEA - Monitoring

Art. 10

• Member States have to monitor the significant environmental effects of the implementation of the plan/programme in order to:
  - identify at an early stage unforeseen adverse effects;
  - be able to undertake remedial action.

• Existing monitoring arrangements may be used.

• Monitoring measures must be covered in the SEA Report.
EIA/SEA Guidance

EU Commission EIA / SEA Homepage:
http://ec.europa.eu/environment/eia/sea-support.htm

• Commission's Guidance on the implementation of Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment;
• Guidance on Integrating Climate Change and Biodiversity into Strategic Environmental Assessment (March 2013);
• GRDP Handbook on SEA for Cohesion Policy 2007-2013 (Interreg IIIC, GRDP greening regional development programmes)

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